

RELOCATION OF NEENAH AVENUE UTILITIES INTERLOCAL COOPERATION AGREEMENT CITY OF AUSTIN AND WILLIAMSON COUNTY

This Interlocal Cooperation Agreement is made and entered into by and between the City of Austin, Texas (the "City") and Williamson County, Texas (the "County"), hereinafter collectively referred to as the "Parties," upon the premises and for the consideration stated herein.

Recitals

1. The County intends to widen Neenah Avenue from Olive Hill Drive to approximately 3200 feet to the east to allow for additional capacity for traffic (the "Roadway Project").
2. The County has entered into a contract with a consultant (the "County Consultant") to provide utility coordination services for the Roadway Project.
3. The City owns Utility and waste Utility lines and appurtenances (the "City Utility Lines and Appurtenances") located within the limits of the Roadway Project.
4. As the owner of the City Utility Utility Lines and Appurtenances, the City is responsible for costs associated with adjusting, removing, and relocating them.
5. The Williamson County Commissioners Court and the Austin City Council each finds that the Roadway Project will provide increased safety for persons using Neenah Avenue, facilitate the movement of people, goods, and services in the City of Austin and Williamson County, and benefit the residents of the City of Austin and the residents of Williamson County.
6. For purposes of cost efficiency, scheduling, and transportation planning, the Parties desire to cooperate to adjust and relocate the City Utility Lines and Appurtenances (the "Utility Line and Appurtenance Adjustments") so that the Roadway Project can proceed without delay or disruption.
7. The City desires to use the County Consultant to design the Utility Line and Appurtenance Adjustments and to use the County Construction Contractor to construct the Utility Line and Appurtenances.
8. The Roadway Project and Utility Line and Appurtenance Adjustments are referred to collectively in this Agreement as the "Combined Projects."
9. The Parties intend to conform to this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code Section 791.001 et seq.

NOW, THEREFORE, the Parties agree as follows:

1. Project Management.

- (a) The County will manage the development and construction of both the Roadway Project and Utility Line and Appurtenance Adjustments, as set forth herein and as described in **Exhibit A**. The Williamson County Director of Road and Bridge (the "County's Director") will act on behalf of the County with respect to the Combined Projects, coordinate with the City, receive and transmit information and instructions, and will have complete authority to interpret and define the County's policies and decisions with respect to the Combined Projects. The County's Director may designate a County Project Manager and may designate other representatives to transmit instructions and act on behalf of the County with respect to the Combined Projects.
- (b) The Austin Water Utility Director (the "City's Director") will act on behalf of the City with respect to the Combined Projects, coordinate with the County, receive and transmit information and instructions, and will have complete authority to interpret and define the City's policies and decisions with respect to the Combined Projects. The City's Director may designate a City Project Manager and may designate other representatives to act on behalf of the City with respect to the Combined Projects.
- (c) If a disagreement between the Parties arises regarding engineering design, design and construction standards, plans and specifications, inspection and testing, deficiencies and remedial action, change orders, or any other requirement or provision of this Agreement, and the disagreement is not resolved by the Parties' Project Managers, it shall be referred as soon as possible to the Parties' Directors for resolution. If the Directors do not resolve the issue, it shall be referred as soon as possible to the Assistant City Manager responsible for Austin Water Utility and the Williamson County Director of Infrastructure.

2. Project Development.

- (a) The City will use the County Consultant to design the Utility Line and Appurtenance Adjustments.
- (b) The County Consultant will be responsible for any required permitting and environmental assessments and clearances

associated with Utility Line and Appurtenance Adjustments unless otherwise noted.

- (c) The City will be responsible for the County Consultant's fees for the engineering design, plans, and specifications for Utility Line and Appurtenance Adjustments during the development and construction of the Utility Line and Appurtenance Adjustments.
- (d) The City and, to the extent set forth herein, the County will be responsible for the review and approval of the engineering design, plans and specifications and for construction inspection and testing for the Utility Line and Appurtenance Adjustments. The plans and specifications for the Utility Line and Appurtenance Adjustments shall be in accordance with the design and construction standards of the City. In addition, the County and, to the extent set forth herein, the City will be responsible for the review and approval of any modifications to the engineering design, plans, and specifications for the Utility Line and Appurtenance Adjustments, during the development and construction of the Utility Line and Appurtenance Adjustments.
- (e) The County will ensure that the County Consultant and construction contractor provide professional liability, automobile liability, and general liability insurance in accordance with the standard requirements of the County for such projects, during the term of the design and construction of the Combined Projects. The County will have the City named as an additional insured with respect to such coverage. The County will provide a waiver of subrogation on the auto liability, general liability, and worker's compensation coverages.
- (f) The County Consultant will obtain permit(s) for the Utility Line and Appurtenance Adjustments as required by City and County rules and regulations and be responsible for any associated fees required for the Utility Line and Appurtenance Adjustments.
- (g) The County will transfer legal title to the constructed Utility Line and Appurtenance Adjustments to the City when the Utility Line and Appurtenance Adjustments are completed and accepted for operation and maintenance by the City.
- (h) The Parties will participate in joint review meetings with representatives from all affected City and County Departments in order to avoid and resolve conflicts in review comments.
- (i) The County Consultant will submit the Utility Line and Appurtenance Adjustments design plans at the 90% and 100% design stage to the Austin Utility Department for comments and approval.

- (j) The County shall require the County Consultant and the County's construction contractor to immediately take any appropriate remedial action to correct any deficiencies identified by the City with respect to Utility Line and Appurtenance Adjustments.
 - (k) The County Project Manager will notify in writing the Austin Water Utility project manager fourteen (14) days prior to start of construction of the Utility Line and Appurtenance Adjustments of the need for city inspector.
3. Management Duties of the County. The County hereby covenants and agrees to provide to the City:
- (a) Up to four (4) sets of the construction plans and specifications for the Utility Line and Appurtenance Adjustments at intervals to be agreed to by the Parties' Project Managers to the City for review and approval;
 - (b) County will ensure contractor or the subcontractor awarded the construction contract has at least 5 years of experience in construction of water and wastewater lines and is familiar with the City of Austin specifications and standard details for construction of water and wastewater lines.
 - (c) Written responses to the City's initial plan review comments within fourteen (14) days of receipt from the City;
 - (c) A copy of the County's contract with the County Consultant for the design of the Utility Line and Appurtenance Adjustments;
 - (d) A copy of the invoice for the preceding month relating to the Utility Line and Appurtenance Adjustments, including copies of invoices, statements, vouchers, or any other evidence of payment of debt;
 - (e) Executed change orders, jointly approved by the City and the County, related to the Utility Line and Appurtenance Adjustments;
 - (f) A copy of any change order request related to the Utility Line and Appurtenance Adjustments within two (2) working days of its receipt by the County, by delivery to the City's Project Manager for review and approval;
 - (g) Sufficient notice, documentation and opportunity for the City to review and jointly approve the construction contractor's application for final payment; and
 - (h) Within sixty (60) days after satisfactory completion of construction of the Roadway Project furnish the City a copy of the record as-built drawings of the Utility Line and Appurtenance Adjustments for the City's records.

4. Management Duties of the City. The City hereby covenants and agrees to:
- (a) Review and approve the submitted plans and specifications by providing any initial comments within twenty one (21) days of submittal, review and approve the County's responses to those initial comments within fourteen (14) days, and work in good faith to resolve any outstanding issues;
 - (b) Review any change order proposal for Utility Line and Appurtenance Adjustments by returning the change order request to the County within five (5) working days of its receipt by the City's Project Manager and provide a written recommendation for its disposition; respond to requests for information within three (3) working days and requests for approval of shop drawings within ten (10) working days;
 - (c) At the option and expense of the City, perform independent inspection and testing on the Utility Line and Appurtenance Adjustments in coordination with County's inspectors and as agreed to by the City and County Project Managers. Any testing by the City must be scheduled to avoid delaying the construction of the Roadway Project to the maximum extent practical. In connection therewith, the City will designate inspectors to make any such inspections, including any joint final inspection of the completed Utility Line and Appurtenance Adjustments with the County; the City's inspectors shall communicate any issues to the County Inspector only;
 - (d) Coordinate with the City and County Project Managers, as reasonable and necessary, to facilitate the development of the Utility Line and Appurtenance Adjustments.
 - (e) Immediately report any deficiencies observed in the construction of the Utility Line and Appurtenance Adjustments to the County inspector and followed by writing to the County's Project Manager;
 - (f) Attend meetings at the request of the County's Project Manager; and
 - (g) Upon satisfactory substantial completion of the Utility Line and Appurtenance Adjustments, the City will conditionally accept Utility Line and Appurtenance Adjustments and will finally accept the Utility Line and Appurtenance Adjustments upon completion of any applicable warranty or construction performance period.
5. Liability. To the extent allowed by Texas law, the City and the County agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions.

6. Financial Obligations.

- (a) The City Agrees to pay all costs for the Utility Lines Improvements, including the cost of design and integration of the Utility Lines adjustments into the Project, construction, testing and the cost of any change orders made necessary by field changes to address unanticipated conditions under terms and conditions on this Agreement. The City shall pay project design integration and construction costs through an escrow account with Williamson County at an amount equal to the cost of the design plus the construction bid amount, unless otherwise agreed to by the City and the County in writing. This amount is currently \$24,013.00 for design and integration of PS&E services and, construction estimate cost of \$60,461.13 with a \$6,046.11 contingency for an estimated total not to exceed \$90,520.24. The design and integration cost and, estimated construction cost of the Utility Lines adjustments is set forth in Exhibit B, attached hereto.
- (b) Within thirty (30) days of the effective date of this Agreement and upon submission of an invoice by the county, the City shall provide funding for the design and PS&E integration of the Utility Line Appurtenance Adjustments, and in accordance with **Exhibit B** of the Agreement, in the amount not to exceed \$24,013.00.
- (c) The County will include bid items for the Utility Line and Appurtenance Adjustments in the bid documents for the Roadway Project, as an additive, alternate set of bid items, and the County will solicit bids for the construction of the Roadway Project and the Utility Line and Appurtenance Adjustments based on the combined plans and specifications and in accordance with applicable state and local bidding laws, practices, and procedures and in accordance with the County's minority and women-owned business policy.
- (d) **Exhibit B** of the Agreement provides the estimated amount of the bid component for the Utility Line and Appurtenance Adjustments as determined by the County Consultant. The County will enter into a firm unit-price contract with the successful bidder.
- (e) Within thirty (30) days after the opening of bids for the Combined Project, and upon notification by the county of the successful bidder and the bid amount, the City must deposit with the County Treasurer the amount of the bid component for the utility lines -and Appurtenance Adjustments.

- (f) Interest on overdue payments is governed by Chapter 2251 of the Texas Government Code and is the responsibility of the City.
- (g) For any change orders that are the responsibility of the City, as described above, and that cause the actual costs of design and construction of specified elements of the Water Line and Appurtenance Adjustments or the Roadway Project to exceed the City's funding, the City shall make its funds available to the County within forty five (45) days after receipt of invoice by the County, such invoices to be accompanied by the change order request from the construction contractor.
- (h) The County Treasurer shall act as Escrow Agent for the management of the City's funds and shall deposit the funds in an interest bearing escrow account. The County shall invest the funds in accordance with the Public Funds Investment Act, and any other applicable laws or bond covenants. The interest and any unused portion of the public funds provided by the City under this agreement shall be returned to the City of Austin Utility Financial Manager within sixty (60) calendar days after the completion of the Roadway Project and Utility Line and Appurtenance Adjustments. The County shall provide the City with an accounting of the deposits to and disbursements from the County's escrow account. The County will make its records available, at reasonable times, to the City's auditors, or its independent financial advisors or other professionals who provide arbitrage rebate calculations to the City.
- (i) The County Treasurer shall timely pay submitted invoices for the Utility Line and Appurtenance Adjustments.

7. Final Accounting.

- (a) Within sixty (60) days after the construction of the Utility Line and Appurtenance Adjustments is complete or this Agreement is terminated, the County shall render and send to the City's Project Manager a final written accounting of any and all costs to be paid or borne by, or credited or refunded to, any Party under this Agreement, taking into account any amount the City has previously paid as provided herein and subject to adjustment after resolution of any pending claims or contingent liabilities arising from the Utility Line and Appurtenance Adjustments. The City has the right to audit the County's records and may request any such audit, or any adjustments or corrections, within sixty (60) days of receipt of the accounting.
- (b) After the County has sent any corrected or adjusted final accounting to the City, the City will pay any amount it owes no later

than sixty (60) days after receipt of such final accounting. The County must refund any amounts due the City within sixty (60) days after delivery of any adjusted final accounting.

- (c) Notwithstanding any provision to the contrary, this Section 7 will survive the termination of this Agreement.

8. Miscellaneous.

- (a) Force Majeure. In the event that the performance by the City or the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party or privy hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto.
- (b) Notice. Any notice given hereunder by either party to the other shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses:

CITY: Greg Meszaros or designee
City of Austin
Austin Utility Utility
625 E. 10th Street
Austin, Texas 78701

WITH COPY TO: Gregory Miller (or successor)
Senior City Attorney
City of Austin Law Department
301 W. 2nd Street
Austin, Texas 78701

COUNTY: Williamson County Judge
Dan A. Gattis (or successor)
710 Main Street, Suite 101
Georgetown, Texas 78626

WITH A COPY TO: Williamson County Director of Infrastructure
Robert Daigh, P.E. (or successor)
3151 SE Inner Loop, Suite B
Georgetown, Texas 78626

Hal C. Hawes
General Counsel
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

- (c) Number and Gender Defined. As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.
- (d) Entire Agreement. This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the construction of the Utility Line and Appurtenance Adjustments and the Roadway Project. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties. No official, representative, agent, or employee of Williamson County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Williamson County, Texas. The recitals set forth above and the attached exhibits are incorporated herein.
- (e) Effective Date. This Agreement takes effect upon the last date of execution of the Agreement by the City and the County. This Agreement will automatically renew from year to year until the completion of the warranty period for the Roadway Project and any litigation or other matters surviving the completion of the Roadway Project, unless terminated earlier by the Parties.
- (f) Other Instruments. The Parties covenant and agree that they will execute other and further instruments and documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
- (g) Invalid Provision. Any clause, sentence, provision, paragraph, or article of this agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.

- (h) Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

CITY OF AUSTIN, TEXAS

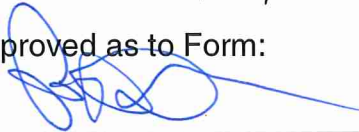
By: 

Name: Robert Goode

Title: Assistant City Manager
Authorized Representative

Date: 1/2/16

Approved as to Form:


Assistant City Attorney

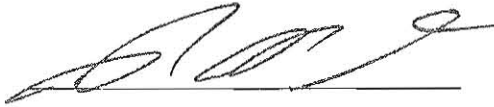
WILLIAMSON COUNTY, TEXAS

By: _____
Dan A. Gattis, County Judge

Date: _____

- (h) Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

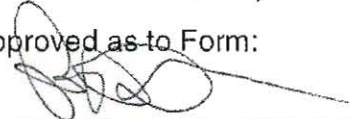
CITY OF AUSTIN, TEXAS

By: 

Name: Robert Goode

Title: Assistant City Manager
Authorized Representative

Date: 1/20/16

Approved as to Form: 
Assistant City Attorney

WILLIAMSON COUNTY, TEXAS

By: 
Dan A. Gattis, County Judge

Date: 02-12-2016

EXHIBIT A

DESCRIPTION OF ROADWAY PROJECT – NEENAH AVENUE

The Roadway Project is to widen Neenah Avenue from Olive Hill Drive to approximately 3200 feet to the east to allow for additional capacity for traffic.

DESCRIPTION OF CITY'S UTILITY LINE AND APPURTENANCE ADJUSTMENTS

The Utility Line and Appurtenance Adjustments consist of:

- Replacing Utility Lines
- Connection of existing service connections
- Adjusting existing valve boxes to grade
- Repositioning and adjusting
 - Existing Utility Vault with Utility Meter
 - Existing WasteUtility Manhole
 - Existing Utility meter and box

EXHIBIT B

**WILLIAMSON COUNTY WATER LINE CONSTRUCTION:
RELOCATION OF NEENAH AVENUE UTILITIES
CIP No.: 3212.144**

Engineering Cost:

ITEM DESCRIPTION	QUANTITY	UNIT TYPE	AMOUNT
DESIGN OF UTILITY ADJUSTMENTS	137	HR	\$18,907.00
BIDDING ASSISTANCES SERVICES	2	HR	\$300.00
CONSTRUCTION ADMINISTRATION AND OBSERVATION	38	HR	\$4,806.00
SUB TOTAL			\$24,013.00

Construction Cost

BID ITEM	SPEC. NO.	BID ITEM DESCRIPTION	QUANTITY	UNIT TYPE	UNIT PRICE	AMOUNT
1	504S-3W	ADJUST UTILITY VALVE BOX TO GRADE	<u>3</u>	<u>EA</u>	\$434.38	\$1,303.13
2	506S-4WW	MINOR MANHOLE HEIGHT ADJUSTMENT	<u>3</u>	<u>EA</u>	\$2,437.50	\$7,312.50
3	509S-1	TRENCH EXCAVATION SAFETY PROTECTION SYSTEMS	<u>85</u>	<u>LF</u>	\$3.55	\$301.75
4	510-AW2-K	PIPE, 2" DIAMETER, COPPER TYPE K (ALL DEPTHS) INCLUDES EXCAVATION AND BACKFILL	<u>25</u>	<u>LF</u>	\$81.25	\$2,031.25
5	510-AWRJ-6 DIA.	FACTORY RESTRAINED JOINT PIPE, 6" DIAMETER, DI CL 350 (ALL DEPTHS) INCLUDES EXCAVATION AND BACKFILL	<u>24</u>	<u>LF</u>	\$93.75	\$2,250.00
6	510-AWRJ-8 DIA	FACTORY RESTRAINED JOINT PIPE, 8" DIAMETER, DI CL 350 (ALL DEPTHS) INCLUDES EXCAVATION AND BACKFILL	<u>35</u>	<u>LF</u>	\$125.00	\$4,375.00
7	510-AWRJ-12 DIA	FACTORY RESTRAINED JOINT PIPE, 12" DIAMETER, DI CL 350 (ALL DEPTHS) INCLUDES EXCAVATION AND BACKFILL	<u>50</u>	<u>LF</u>	\$137.50	\$6,875.00
8	510-BW-8	CONNECTION NEW 8" SERVICE TO EXISTING UTILITY VAULT	<u>1</u>	<u>EA</u>	\$1,875.00	\$1,875.00
9	510-BW-2X2	CONNECTING NEW SINGLE 1.5" SERVICE TO EXISTING PRIVATE SERVICE	<u>1</u>	<u>EA</u>	\$1,250.00	\$1,250.00

EXHIBIT B

WILLIAMSON COUNTY WATER LINE CONSTRUCTION: RELOCATION OF NEENAH AVENUE UTILITIES CIP No.: 3212.144

		CONNECTION NEW 12" SERVICE TO EXISTING PRIVATE SERVICE (8" DIA NEW SERVICE TO 8" DIA PRIVATE SERVICE)	<u>1</u>	<u>EA</u>	\$1,875.00	\$1,875.00
10	510-BW- 12X12					
11	510-JW 8X8 510-JW- 12X12	WET CONNECTIONS, 8" DIA. X 8" DIA.	<u>1</u>	<u>EA</u>	\$5,000.00	\$5,000.00
12		WET CONNECTIONS, 12" DIA. X 12" DIA.	<u>1</u>	<u>EA</u>	\$6,250.00	\$6,250.00
13	510-KW	DUCTILE IRON FITTINGS	<u>0.50</u>	<u>TON</u>	\$6,250.00	\$3,125.00
		RELOCATE EXISTING FIRE HYDRANT INCLUDING GATE VALVE	<u>4</u>	<u>EA</u>	\$3,125.00	\$12,500.00
14	SS511S-17					
15	700S-TM	TOTAL MOBILIZATION PAYMENT	<u>1</u>	<u>LS</u>	\$2,250.00	\$2,250.00
		BARRICADES, SIGNS, & TRAFFIC HANDLING	<u>1</u>	<u>MO</u>	\$1,887.50	\$1,887.50
16	803S-MO					

SUB TOTAL	\$60,461.13
Contingency	\$6,046.11
GRAND TOTAL	\$66507.24